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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/848,010

05/02/2001

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BI9485P

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33197 7590 03/22/2007
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EXAMINER

SHAY, DAVID M

ART UNIT

PAPER NUMBER

3735

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/22/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/848,010

Applicant(s)

RIZOIU ET AL.

Examiner

david shay

Art Unit

3735*

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on January 10, 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29,31,48-52 and 55-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29,31,48-52 and 55-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 10, 2007 has been entered.

Applicant argues that the pending claims all contain a limitation of a second placement with less moisture than the first and immediately follows the first placement and asserts that neither of the references applied against the claims contains such a step. It appears from applicant's arguments, that applicant is construing the claims more narrowly than they are written. Applicant appears to be arguing that the references, assuming they could be combined, would not produce a "first placement" which occurs and an immediately following "second placement" however, applicant does not explain why the rejections are not proper, other than to refer to previous arguments. The examiner asserts that the rejections are proper, for the reasons set forth in response to applicant's arguments, which are incorporated herein by reference. Applicant also argues that there is no showing of record that a "clean up" procedure "would be formed (sic, performed) at the end of the procedure". The examiner notes that the for the instant claims to read on the combination, the "clean up" procedure need only not be performed as the very first step, thus no showing of it occurring last is necessary. Regardless of this, other procedures not involving water are also taught by Vassiliadis et al. For example, the sterilizing process, which would be performed as soon as possible after the tissue removal, would be performed immediately after the tissue removing steps. In view of this, the arguments concerning the desensitization procedure are moot.

With respect to applicants various assertions that the Rizoiu et al (WO '928) device would not be used with the device of Vassiliadis et al, these assertions are not well founded. Rizoiu et al (WO '928) specifically discusses the use of the device with conventional dental tissue removal devices in the paragraph bridging pages 47 and 48 thereof.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The amendment filed December 11, 2006 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: a second laser application step that "immediately follows" the first laser application step.

Claims 29, 31, 48-52, and 55-59 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed disclosure amended is silent on a second laser application step that "immediately follows" the first laser application step.

Claims 29, 31, 48-52, and 55-59 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In the claims, exactly what period of time falls within the scope of "immediately" is unclear, this term lacks positive antecedent basis in the originally filed specification.

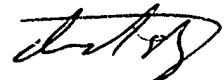
Claims 29, 31, 48-52, and 55-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rizoiu et al (WO '928) in combination with Vassiliadis et al. Rizoiu et al (WO '928) provide the teachings set forth above and additionally teach the use of the . electromagnetically induced mechanical cutter in conjunction with a variety of conventional tools including lasers and hydrokinetic cutters, wherein the fluid particles are conditioned with e.g. anesthetics (see page 47, line 22 through page 55, line 21). Vassiliadis et al teach that irradiating a tooth at low levels can desensitize the tooth and enable more rapid removal of dentin by conventional laser means (see column 5, line 7-30) and to employ the cutting laser when the water is not being sprayed (see column 6, lines 5-14) and that tissue can be removed bloodlessly. It would have been obvious to the artisan of ordinary skill to employ the laser steps of Vassiliadis wherein tissue is removed quickly by thermal cutting in the method of Rizoiu et al (WO '928), since this would provide rapid tissue removal for a large amount of tissues, while enabling the thermally damaged tissue remaining to be removed by the non-thermal cutting of Rizoiu et al (WO '928), since this would save time and be less stressful on the patient, as taught by Vassiliadis et al or to employ the non thermal cutting steps of Rizoiu et al (WO '928) in the method of Vassiliadis et al, since this would leave only healthy, viable tissue with a good bonding surface, as taught by Rizoiu et al (WO '928) thus producing a method such as claimed.

Applicant's arguments filed July 20, 2006 have been fully considered but they are not persuasive. The arguments are not convincing for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to david shay whose telephone number is (571) 272-4773. The examiner can normally be reached on Tuesday through Friday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II, can be reached on Monday, Tuesday, Wednesday, Thursday, and Friday. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DAVID M. SHAY
PRIMARY EXAMINER
GROUP 330